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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

DAVID ATIS, : NO. 1:15-CV-03424
Individually and on :
behalf of all others :
similarly situated, :
Plaintiffs, :
:
vs. :
:
FREEDOM MORTGAGE :
CORPORATION, et al., :
Defendants. :

WITNESS: JAMES R. HAYDEN

MARCH 11, 2016

Deposition held pursuant to Fed.R.Civ.P. 30(b) (6)
held at the offices of Drinker, Biddle & Reath,
LLP, One Logan Square, Suite 2000, Philadelphia,
Pennsylvania, beginning at approximately 1:08
p.m., before Donna M. Bittner, Court
Reporter-Notary Public, there being present:

R&K Reporting, Inc.
Court Reporting Services
P.O. Box 1372
Levittown, Pennsylvania 19058-1372
(215) 946-7009

1 MR. AIKEN: Yes.

2 BY MR. HOROWITZ:

3 Q. What are the required qualifications for
4 an AVPS?

5 A. Required qualifications? Well, nowadays
6 you have to be a licensed mortgage professional.
7 So you have to pass a test. You get licensed in
8 individual states.

9 Q. Other than that, are there any other
10 qualifications?

11 A. Outside of that you need to pass our
12 background and credit worthiness test.

13 Q. Anything else?

14 A. Qualification wise, no.

15 Q. What is Freedom Mortgage's expectations
16 of the AVPS?

17 A. That's a pretty broad statement --

18 Q. Sure.

19 A. -- or question.

20 Q. Sure. Let's do it this way, what duties
21 did the AVPS have to perform?

22 A. Let me say that their primary
23 responsibility would be as a mortgage licensed
24 professional to discuss options with consumers

1 who inquire about their mortgage needs. An AVP
2 of sales would have to be skilled in asking
3 pertinent questions, understanding their needs,
4 and their wishes, understanding their financial
5 goals, gathering a bunch of detailed data in the
6 form of a mortgage application, analyzing that
7 data, interpreting that data, running credit
8 reports, running automated underwriting systems,
9 and then try and find a solution that would meet
10 the needs of that borrower. And then negotiate
11 rate, fees, terms, explain the origination
12 process, expectations around origination through
13 closing. That's how I would sum it up.

14 Q. And it's an assistant vice president of
15 sales, right, that's what AVPS stands for?

16 A. Yes.

17 Q. So it's basically a sales position?

18 MR. AIKEN: Objection to the form.

19 MR. HOROWITZ: You can answer the
20 question.

21 THE WITNESS: I don't consider it a
22 sales position.

23 BY MR. HOROWITZ:

24 Q. What do you consider it?

1 A. They're mortgage professionals. You're
2 not selling a piece of paper. You're not selling
3 a widget. People call you. People have needs.
4 So you're putting them into products and you are
5 structuring solutions to meet their needs.
6 You're not necessarily selling per se. You're
7 satisfying a need of a borrower or a consumer and
8 putting them into a product that meets those
9 needs.

10 Q. Why do you consider -- why do you call
11 them assistant vice president of sales then?

12 A. Well, because you're not necessarily
13 selling a product. But what you do have to sell
14 at the end of the day, you have to sell yourself
15 and you have to sell Freedom. How they met your
16 need, yes or no. Then why do you want to do
17 business with me, why do you want to do business
18 with Freedom. I think that aspect of the job is
19 more of the selling piece.

20 Q. So they are selling; is that right?

21 MR. AIKEN: Objection to the form.

22 You can answer.

23 THE WITNESS: I mean, I just thought
24 I explained my definition.

1 Q. Do you know what that program is called?

2 A. You just explained a couple different
3 programs.

4 Q. Okay. Well, which programs did I
5 identify?

6 A. Well, you said they first came in and
7 logged into the system. That would be correct.
8 They would have to log into their desktop.

9 Right. User ID and password. Once they're into
10 their desktop, they would then log into a number
11 of different systems that they would be required
12 to use.

13 Q. And which would those systems be?

14 A. Your basic phone system. So you log in
15 and out of your phone.

16 Q. And what else?

17 A. They're also asked to log in their PTO,
18 you know, if they're on or off.

19 Q. Did you say PTO?

20 A. Paid time off.

21 Q. Got it.

22 A. Vacation.

23 Q. And what system would they log that
24 under? Is there a program they would log it in?

1 A. The current program is called Ultipro.

2 Q. When was Ultipro implemented, if you
3 know?

4 A. I don't have that date.

5 Q. Is it more than five years ago?

6 A. More than five years ago, no.

7 Q. More than three years ago?

8 A. I've been with the company only three
9 and-a-half years. It's probably right in the
10 middle.

11 Q. So it was less than three and-a-half
12 years?

13 A. Yes.

14 Q. What does Ultipro record in terms of
15 hours worked for AVPS?

16 MR. AIKEN: Objection to the form.
17 Mischaracterizes his testimony. You can answer.

18 BY MR. HOROWITZ:

19 Q. What information does the Ultipro --
20 does it collect any information?

21 A. It can collect your login time and your
22 login or logout time. It can check your sick
23 days or your vacation days. We also use Ultipro
24 for all the performance evaluations, you know, so

1 it's a comprehensive HR solution tool that imbeds
2 both recordkeeping, vacation time, as well as
3 overall performance management.

4 Q. And just as it relates to the logging in
5 and logging out, is that something that the AVPS
6 is supposed to do at the beginning of the day and
7 at the end of the day?

8 A. Yes.

9 Q. How long does Freedom retain those
10 records?

11 A. I don't have that information.

12 Q. The phone system, is that the AVPS would
13 say kind of identify that they're available in
14 the morning?

15 MR. AIKEN: Objection. He didn't
16 actually testify to that, but you can ask him
17 that question.

18 BY MR. HOROWITZ:

19 Q. Well, how does it work?

20 A. So you login to the system. Once you're
21 logged in to the system, there's different
22 various statuses that you can put yourself into.
23 Are you available for a call, that's one status.
24 Are you logged in but you're doing other work,

1 office, is that right, or how does that work?

2 A. Some AVP of sales have equipment at
3 home.

4 Q. So they work remotely?

5 A. They could. The initial need was more
6 of in certain weather areas. So in an event we
7 had a snowstorm or something.

8 Q. So other than working from home
9 remotely, just like you described, or working at
10 the office, the AVPS would not work anywhere
11 else, right?

12 A. No.

13 Q. So that's correct, right?

14 A. Correct.

15 Q. You said no I just... Do you know what
16 E-Time is?

17 A. E-Time I believe was the system of
18 record prior to Ultipro.

19 Q. Do you know how that would work?

20 A. I don't have firsthand knowledge.

21 Q. You don't know what it would record as
22 it relates to logging in and logging out?

23 A. No, I don't have that knowledge.

24 Q. What about Interactive Intelligence, do

1 you know what that is?

2 A. I3.

3 Q. That's the phone system?

4 A. Correct.

5 Q. Got it. Do you know how long I3 has
6 been in place? Has it been -- was it there when
7 you were hired?

8 A. Yes.

9 Q. So at least the last three and-a-half
10 years?

11 A. Correct.

12 Q. Would you be able to estimate how many
13 AVPSs work at Freedom Mortgage right now in all
14 locations?

15 A. I could give you a good guess.

16 Q. Well, if you could estimate, not guess.

17 A. A good estimate.

18 Q. Okay. What would that be?

19 A. In Mount Laurel 135; Melville, New York
20 six; Columbia, Maryland 40; Fort Washington 17;
21 Jacksonville, Florida 31; Fishers, Indiana 41;
22 Phoenix, Arizona 48; San Diego around 42. That
23 should be close to 330 some.

24 Q. So you say about 330 or so is the total

1 products, FHA, VA, conventional. We have
2 existing portfolio customers. We also acquire
3 new customers through marketing and advertising
4 and through web sites. So your distribution
5 channel and your products would vary. And
6 campaigns would build around distribution
7 channels and products and those products serving
8 the certain needs of the borrowers within that
9 targeted campaign.

10 BY MR. HOROWITZ:

11 Q. How do you determine how to target a
12 campaign?

13 A. It's generally led by our marketing
14 department where they see an opportunity.

15 Q. And how would the campaigns impact the
16 AVPS?

17 MR. AIKEN: Objection to the form.
18 It's vague. You can answer.

19 THE WITNESS: I'm not sure what the
20 question is.

21 BY MR. HOROWITZ:

22 Q. You said it changed what information
23 they would collect earlier, you said something
24 along those lines, right?

1 A. It could, yes.

2 Q. How would it do so?

3 A. So on a portfolio customer versus a new
4 acquisition customer we generally have all the
5 information already, they're in our servicing
6 portfolio. So rather than gathering all
7 information, new information at the point of
8 sale, your responsibility, if you're in that
9 campaign, is validating existing information. So
10 you're still going over the same information but
11 you're validating versus maybe collecting it for
12 the first time.

13 Q. How do you determine which AVPS is
14 assigned to which campaign?

15 A. That's not my responsibility.

16 Q. How does Freedom determine that?

17 A. Certain AVPSs are trained, you know,
18 have different skill sets. Are better and have
19 demonstrated better with portfolio customers,
20 because that's a different sale than a new
21 customer. You know, so over time, over training,
22 over some assessment, we would, you know, view
23 them as more skilled in certain campaigns than
24 others.

1 A. It all depends on what client it was.

2 Q. Well, if there was a client that you
3 couldn't serve, what would happen then?

4 A. We would ask them to transfer to a
5 different cue.

6 Q. To somebody who was qualified?

7 A. Right. So, for example, like purchase
8 cue, if you, you know, if you talked to somebody
9 who wanted to know about our purchase program, we
10 have a very small dedicated team just for
11 purchase. So we would ask that they would
12 transfer the call, oh, thanks for calling. Hey,
13 we have a dedicated purchase team. Let me get
14 you over there now.

15 MR. HOROWITZ: We'll mark this as
16 three.

17 (Whereupon, Hayden-3, job description, was
18 marked for identification.)

19 BY MR. HOROWITZ:

20 Q. Sir, I'm giving you now what's been
21 marked as Exhibit-3. I know that you testified
22 earlier about the job duties of an assistant vice
23 president of sales. Are you familiar with this
24 document?

1 to get the Judge on the phone about it? We can
2 just ask the question.

3 MR. AIKEN: Ask your question.

4 BY MR. HOROWITZ:

5 Q. Do you know where this information came
6 from?

7 A. I know how this report was built.

8 Q. How was it built?

9 A. It was built by using the information
10 from I3. And it was often in error.

11 Q. What do you mean in error?

12 A. The basis of this report was driven for
13 need to understand AVP productivity. It was not
14 meant and it was never used as an attendance
15 report.

16 Q. Why don't you look at the subject on the
17 first page. LO attendance, loan officer
18 attendance.

19 A. I didn't type it.

20 Q. You're testifying as a representative.

21 How is it not used as an attendance guide?

22 A. I told you, it was meant for an LO
23 productivity.

24 Q. And why was it identified as LO

1 Q. And would that be the same thing for
2 outgoing calls?

3 A. Yes.

4 Q. And when you were talking about loan
5 officer productivity, now that's important and
6 you're tracking that, right?

7 A. Yes.

8 Q. What do you mean by productivity? What
9 is your meaning by that?

10 A. The definition here is how many apps
11 that they write in a given day.

12 Q. Is that the only measure of an LO
13 productivity?

14 A. That's the measurement that we use, LO
15 productivity, apps per day.

16 Q. And that's the only thing that matters?
17 MR. AIKEN: Objection. Lack of
18 foundation. Misleading too.

19 BY MR. HOROWITZ:

20 Q. Are there any other ways in which you
21 measure a loan officer's productivity?

22 A. Yes.

23 Q. How do you do that?

24 A. There's applications and then there's